

ESTTA Tracking number: **ESTTA303608**Filing date: **08/31/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	jioe cool inc		
Entity	Corporation	Citizenship	ny
Address	719 eastrn pk st3 bklyn, NY 11213 UNITED STATES		

Correspondence information	bakshet as jioe cool inc 719 eastrn pk st3 bklyn, NY 11213 UNITED STATES davidlopsker@gmail.com
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**Applicant Information**

Application No	77572901	Publication date	08/18/2009
Opposition Filing Date	08/31/2009	Opposition Period Ends	09/17/2009
Applicant	Biggs, Joseph W. Suite C 11 Miracle Strip Loop Panama City Beach, FL 32417 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2001/00/00 First Use In Commerce: 2001/00/00  
All goods and services in the class are opposed, namely: T-shirts

**Grounds for Opposition**

Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof	Trademark Act section 2(b)
Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	bike week panama city		

Goods/Services	clothing
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Registration Date	NONE		
Word Mark	bike week panama city		
Goods/Services	ccoyjing		

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Goods/Services	clothing		

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Goods/Services	clothing		

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Attachments	bikbi.pdf ( 4 pages )(92880 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ammar/
Name	annar
Date	08/31/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Mark: PANAMA CITY BIKE WEEK

JOE COOL INC, Opposer

vs.

**W. Joseph Biggs,**

Serial No. 77572901

Published 8 18 09

**NOTICE OF OPPOSITION**

'JOE COOL, INC “ Opposer”) believes that IT will be damaged by registration of Application Serial No. 77/572901 for PANAMA CITY BIKE WEEK (“Applicant’s mark”), published for purposes of opposition in the Official Gazette on 8 18 , 2009,

1. Opposer is a Florida **Corporation** and is doing business and located in Hollis Hills and Daytona Florida

2. Upon information and belief, W. Joseph Biggs (“Applicant”) is an individual, a citizen of the United States and a resident of Florida located and doing business at 11 Miracle Strip Loop, Suite C, Panama City Beach, Florida 32417.

3. Applicant seeks to register Applicant’s alleged mark for : “T-shirts” in International Class 25 as evidenced by the publication of the subject mark in the Official Gazette of 7 29 2009.

4. Applicant seeks to register Applicant’s alleged mark based on alleged "actual " use of Applicant’s alleged mark "at least as early as" “00/00/2001"

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5. Applicant has disclaimed any exclusive right to the terms PANAMA CITY apart from the mark, PANAMA CITY BIKE WEEK, as a whole.

5. Opposer has adopted the trademark s BIKE WEEK PANAMA CITY BEACH, BIKE WEEK PANAMA CITY, BIKE WEEK JOE COOL PANAMA CITY BEACH, BIKE WEEK JOE COOL PANAMA CITY, AND BIKE WEEK JOE COOL as early as 1986. The aforementioned Marks have been used continuously in interstate commerce since 1987 and is now used by and through its related parent co. metemp inc ny corp.. (“Opposer’s marks”), and such use inures the benefit of opposer.

6. Opposer has, under its "Opposers Marks" engaged in interstate commerce since 1987, and has promoted them such that they have achieved secondary meaning in the relevant channels of trade for wearing apparel / t-shirts and heat transfers / decals used for clothings.

6. Opposer has, engaged in the sale and marketing of inter Alia t-shirts since 1987 (the alleged date of first use of the Applicant's mark. is 2001

8. There is no issue of priority. Opposer is the senior user upon Applicant's own allegations and or admission.

9. The Applicant's alleged mark is essentially identical in sound, appearance and overall commercial impression to Opposer's marks

10. The opposed goods set forth in Applicant's Application are substantially identical to and directly competitive with Opposer's goods

11. Applicant's products pass through the same or overlapping trade channels.

12. Applicant's "mark" so resembles Opposer's marks as to be likely, when used in connection with the identified goods, to confuse, mislead, or deceive the purchasing public as to affiliation, connection, sponsorship, endorsement, approval, or association of Applicant's goods with Opposer within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C Section 1052(d).

13. Opposer's mark has a sufficient reputation among consumers such that when Applicant's mark is used on or in connection with the opposed goods, a false connection with Opposer would be or likely to be presumed by consumers.

14. Opposer has no control over the nature and quality of the goods provided by Applicant under Applicant's mark and thus will be damaged and irreparably harmed by reason of the loss of control over his reputation and the erosion of goodwill of Opposer's mark.

15. Opposer will be irreparably injured and damaged if Applicant is permitted to use and register Applicant's mark in International Class 25. or related classification/s

16. Applicant is not entitled to registration because of unclean hands and or violations of the Anti Trust Laws and or because his use is ornamental in nature;

17. Upon information and belief, applicant knew of Opposers prior use of confusingly similar Marks and has himself not used his alleged Marks on the date he signed the application being opposed herein.

18 Upon information and belief the opposed Application thus contains false and or fraudulent statements.

- a. he did not inform the PTO of prior usages of mark
- b. he had no actual mark usage when he signed the application
- c. his "usage" was "ornamental", on a sign and not
- d. he enclosed a specimen which does not show trademark use, in the application. said specimen was rejected by the examining attorney in an office action.

applicant then proceeded to concoct a fraudulent and false affidavit in response to the office action, and succeeded -- based on the fraudulent and false affidavit -- to reverse the the examiners initial and correct refusal

WHEREFORE, for the reasons set forth above, Opposer prays that Applicant's U.S. Trademark Application Serial no. 77572901 be rejected, that no registration be issued thereon to Applicant and that this Notice of Opposition be sustained in favor of Opposer.

This Notice of Opposition is being filed electronically, so no duplicate copy is in order. The fee required by Section 2.6(a)(17) will be paid simultaneously with filing.

Respectfully submitted,

/J AMMAR/

P

JOE COOL, INC  
7183639505  
719 EASTERN PK ST3  
BKLYN NY 11213

#### CERTIFICATE OF SERVICE

Joe Cool, Inc verifies that it has prepared a copy of the foregoing to be served on Applicant by fax transmission / 1st class mail on 8/28/09

/AMMAR/ P.